

30879  
DO

SERVICE DATE - APRIL 3, 2000

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

Docket No. AB-1 (Sub-No. 208X)

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY--  
ABANDONMENT EXEMPTION—DALLAS, BOONE, AND GREENE COUNTIES, IA

Decided: March 29, 2000

Chicago and North Western Transportation Company (CNW)<sup>1</sup> filed a request under 49 CFR 1152 Subpart F--Exempt Abandonments to abandon its 9-mile line of railroad between milepost 275.5 near Perry and milepost 266.5 near Rippey, in Dallas, Boone, and Greene Counties, IA. A decision and notice of interim trail use or abandonment (NITU) was served and published in the Federal Register on July 14, 1989 (54 FR 29791). The NITU authorized the Iowa Trails Council (ITC) to negotiate with CNW for an agreement of interim trail use/rail banking of the right-of-way.

On December 17, 1999, the Greene County Conservation Board (GCCB) filed a request to terminate the rail banking of a portion of the right-of-way between Percival Street and Hutton Street, in Greene County. On February 28, 2000, GCCB supplemented its request by submitting a copy of the extant NITU, a statement of willingness to assume financial responsibility, signed jointly by GCCB, the Boone County Conservation Board (BCCB), and the Dallas County Conservation Board (DCCB) (collectively petitioners), and an agreement and assignment between ITC and GCCB that grants GCCB, in cooperation with BCCB and DCCB, ITC's duties, responsibilities, liabilities, and obligations regarding the trail. Petitioners seek to be substituted as the trail users for the remainder of the line that excludes the portion of the right-of-way between Percival and Hutton Streets.

Petitioners' submission substantially meets the requirements of 49 CFR 1152.29(f) for the substitution of trail users. Accordingly, the NITU served on July 14, 1989, will be vacated, and a replacement NITU will be issued naming GCCB, BCCB, and DCCB as the new trail users.

Petitioners also have complied with the requirements of 49 CFR 1152.29(d)(2) regarding the request to terminate trail use over the portion of the right-of-way between Percival Street and Hutton Street and accordingly to vacate the NITU as to that portion. Thus, CNW's successor in interest to the right-of-way, UP, may fully abandon that portion of the line.

---

<sup>1</sup> Effective May 6, 1994, the railroad was renamed Chicago and North Western Railway Company and was subsequently merged into Union Pacific Railroad Company (UP). See Union Pacific Corporation, Union Pacific Railroad Company and Missouri Pacific Railroad Company--Control--Chicago and North Western Transportation Company and Chicago and North Western Railway Company, Finance Docket No. 32133, Decision No. 25 (ICC served Mar. 7, 1995).

This decision will not significantly affect either the quality of the human environment or conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. The NITU served July 14, 1989, is vacated.
3. A replacement NITU is issued designating the Boone County Conservation Board, the Dallas County Conservation Board, and the Greene County Conservation Board as the new trail users, except for that portion of the line between Percival Street and Hutton Street.
4. UP may fully abandon that portion of the right-of-way between Percival Street and Hutton Street.
5. The new trail users are required to assume, for the term of the agreements, full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the right-of-way.
6. Interim trail use/rail banking is subject to the future restoration of rail service and to the new users continuing to meet the financial obligations for the right-of-way.
7. If any of the new trail users intend to terminate trail use, it must send the Board a copy of this decision and notice and request that it be vacated on a specified date.
8. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams  
Secretary